

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2007-1112-IWD-E TCEQ ID: RN102074739 CASE NO.: 34171**  
**RESPONDENT NAME: Houston Marine Services, Inc.**

Page 1 of 2

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Houston Marine Services Baytown Terminal, 850 South Lynchburg Road, Baytown, Harris County</p> <p><b>TYPE OF OPERATION:</b> Petroleum storage and barge facility</p> <p><b>SMALL BUSINESS:</b>    <input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on December 19, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>     <b>TCEQ Attorney/SEP Coordinator:</b> Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768]     <b>TCEQ Enforcement Coordinator:</b> Mr. J. Craig Fleming, Enforcement Division, Team 3, MC-149, (512) 239-5806 ; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171     <b>Respondent:</b> Mr. Jim Bailey, President, Houston Marine Services, Inc., 850 South Lynchburg Road, Baytown, Texas 77520     <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

## VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<b>Type of Investigation:</b> <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review  <b>Date(s) of Complaints Relating to this Case:</b> None  <b>Date of Investigation Relating to this Case:</b> June 14, 2007  <b>Date of NOV/NOE Relating to this Case:</b> July 3, 2007 (NOE)  <b>Background Facts:</b> This was a routine investigation. One violation was documented.  <b>WATER</b>  Failure to comply with the permitted effluent limitations for Chemical Oxygen Demand and Oil & Grease. [30 TEX. ADMIN. CODE § 305.121(1), TEX. WATER CODE § 26.121(a), and TPDES Permit No. 02842, Effluent Limitations and Monitoring Requirements No. 1]	<b>Total Assessed:</b> \$3,960  <b>Total Deferred:</b> \$792 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay  <b>SEP Conditional Offset:</b> \$1,584  <b>Total Paid to General Revenue:</b> \$1,584  <b>Site Compliance History Classification</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor  <b>Person Compliance History Classification</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor  <b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  <b>Applicable Penalty Policy:</b> September 2002	<b>Corrective Actions Taken:</b>  The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility during February 2007:  a. Cleaned the pipe system that transports the stormwater within the Facility;  b. Vacuums the oil recovery system once each week into a vacuum truck and transports to the Facility's wastewater treatment plant; and  c. Returned to compliance with the permitted effluent limits during February, 2007.  <b>Ordering Provisions:</b>  The Order will require the respondent to implement and complete a Supplemental Environmental Project (SEP).

**Attachment A**  
**Docket Number: 2007-1112-IWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>Houston Marine Services, Inc.</b>
<b>Payable Penalty Amount:</b>	<b>Three Thousand One Hundred Sixty-Eight Dollars (\$3,168)</b>
<b>SEP Amount:</b>	<b>One Thousand Five Hundred Eighty-Four Dollars (\$1,584)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Gulf Coast Waste Disposal Authority ("GCWDA")-River, Lakes, Bays 'N Bayous Trash Bash</b>
<b>Location of SEP:</b>	<b>Harris County</b>

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**A. Project**

The Respondent will contribute to Gulf Coast Waste Disposal Authority ("GCWDA") for its River, Lakes, Bays 'N Bayous Trash Bash in Harris County. The contribution will be used in accordance with the Supplemental Environmental Project Agreement between the GCWDA and the Texas Commission on Environmental Quality. Specifically, the contribution will be used to pay for materials, supplies, disposal costs, and transportation costs directly associated with the cleanup of trash and pollutants from the Galveston Bay and the San Jacinto watershed.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

**B. Environmental Benefit**

This SEP will provide a discernible environmental benefit by removing pollutants from the Galveston Bay and waterways in the San Jacinto watershed, which will improve water quality. The project will also help educate volunteers about non-point source pollution and what the volunteers can do to help keep the environment clean.

**C. Minimum Expenditure**

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.



Houston Marine Services, Inc.  
Agreed Order – Attachment A

## **2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Lori Gernhardt  
Gulf Coast Waste Disposal Authority  
910 Bay Area Boulevard  
Houston, Texas 77058

## **3. Records and Reporting**

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

## **4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality  
Financial Administration Division, Revenues  
Attention: Cashier, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

## **5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.



**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.





# Compliance History

Customer/Respondent/Owner-Operator:	CN600358949	Houston Marine Services, Inc.	Classification: AVERAGE	Rating: 0.86
Regulated Entity:	RN102074739	HOUSTON MARINE SERVICES BAYTOWN	Classification: AVERAGE	Site Rating: 0.44
ID Number(s):	WASTEWATER	PERMIT	WQ0002842000	
	WASTEWATER	PERMIT	TPDES0106488	
	WASTEWATER	PERMIT	TX0106488	
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR000024570	
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	38185	
	AIR NEW SOURCE PERMITS	PERMIT	21098	
	AIR NEW SOURCE PERMITS	PERMIT	34280	
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG1779E	
	AIR NEW SOURCE PERMITS	AFS NUM	4820101393	
	AIR NEW SOURCE PERMITS	REGISTRATION	70441	
	AIR NEW SOURCE PERMITS	PERMIT	70190	
	AIR NEW SOURCE PERMITS	REGISTRATION	80763	
	AIR NEW SOURCE PERMITS	REGISTRATION	82270	
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	55174	
	USED OIL	REGISTRATION	A85458	
	USED OIL	EPA ID	TXR000024570	
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1013287	
	STORMWATER	PERMIT	TXR05Q746	
Location:	850 S Lynchburg Rd, Baytown, TX		Rating Date: September 01 06 Repeat Violator: NO	
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	July 10, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	July 10, 2002 to July 10, 2007			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: J. Craig Fleming Phone: (512) 239-5806

## Site Compliance History Components

- |  |            |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes        |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | #          |
| 3. If Yes, who is the current owner?   | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)?  | N/A        |
| 5. When did the change(s) in ownership occur?  | N/A        |

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- |   |            |          |
|---|------------|----------|
| 1 | 07/24/2002 | (224883) |
| 2 | 08/22/2002 | (224885) |
| 3 | 09/26/2002 | (224888) |
| 4 | 10/21/2002 | (224891) |
| 5 | 11/22/2002 | (224893) |
| 6 | 12/27/2002 | (224896) |
| 7 | 01/24/2003 | (224899) |

8	02/24/2003	(224869)
9	03/21/2003	(323371)
10	04/22/2003	(224874)
11	05/21/2003	(323374)
12	06/04/2003	(60873)
13	06/23/2003	(323375)
14	07/02/2003	(62021)
15	07/16/2003	(323376)
16	08/18/2003	(323377)
17	09/03/2003	(152338)
18	09/19/2003	(323378)
19	10/20/2003	(323379)
20	11/14/2003	(323380)
21	12/12/2003	(323381)
22	01/12/2004	(323382)
23	01/28/2004	(256287)
24	02/11/2004	(323370)
25	03/10/2004	(323372)
26	03/19/2004	(323383)
27	04/19/2004	(323373)
28	05/14/2004	(364600)
29	06/04/2004	(266787)
30	06/14/2004	(364601)
31	07/16/2004	(364602)
32	08/09/2004	(364603)
33	09/17/2004	(364604)
34	10/15/2004	(364605)
35	11/08/2004	(388847)
36	12/15/2004	(388848)
37	02/14/2005	(388846)
38	03/16/2005	(446738)
39	04/20/2005	(426450)
40	05/18/2005	(426451)
41	06/27/2005	(426452)
42	07/14/2005	(446739)
43	07/20/2005	(371971)
44	07/20/2005	(400519)
45	07/28/2005	(402292)
46	07/29/2005	(402194)
47	08/05/2005	(403672)
48	08/15/2005	(401318)
49	08/15/2005	(446740)
50	08/15/2005	(405055)
51	08/17/2005	(405668)
52	08/17/2005	(405708)
53	08/19/2005	(406187)
54	08/22/2005	(406514)
55	08/29/2005	(418374)
56	09/08/2005	(418507)
57	09/19/2005	(446741)
58	09/19/2005	(446742)
59	10/17/2005	(479651)
60	11/10/2005	(433637)
61	11/14/2005	(479652)
62	12/19/2005	(479653)
63	02/22/2006	(479649)
64	03/20/2006	(479650)
65	04/19/2006	(505312)
66	06/02/2006	(505313)
67	06/29/2006	(505314)
68	06/29/2006	(505315)
69	07/24/2006	(527588)
70	07/24/2006	(527591)

71 08/22/2006 (527589)  
 72 09/19/2006 (527590)  
 73 10/26/2006 (551287)  
 74 11/21/2006 (551288)  
 75 12/15/2006 (551289)  
 76 01/18/2007 (512683)  
 77 04/23/2007 (556621)  
 78 05/15/2007 (556666)  
 79 07/03/2007 (564317)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 07/31/2002 (224885)  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 09/30/2002 (224891)  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 10/31/2002 (224893)  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 12/31/2002 (224899)  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 06/04/2003 (60873)  
 Self Report? NO Classification Moderate  
 Rqmt Prov: OP Permit No. 02842-000, Page 6 No. 7c  
 Description: Failure to comply with required noncompliance notification procedures.  
 Self Report? NO Classification Moderate  
 Rqmt Prov: OP Permit No. 02842-000, P. 2 #1, P. 2a #1  
 Description: Failure to maintain compliance with the permitted effluent limits for COD and Oil and Grease (O&G). During the 12 month period of review (April, 2002 - March, 2003.), the self-reported data indicated 5 violations of the COD and O&G permitted limitations.  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 319, SubChapter A 319.1  
 Description: Failure to record all required information on the Discharge Monitoring Reports (DMRs).  
 Date: 07/01/2003 (62021)  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(5)  
 Description: Failure to provide a housed and locked enclosure for hypochlorinator solution containers and pumps.  
 Self Report? NO Classification Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)[G]  
 Description: Failure to provide the ground storage tank with a ladder to facilitate routine inspection.  
 Self Report? NO Classification Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)  
 Description: Failure to equip the ground storage tank with a water level indicator.  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)  
 Description: Failure to provide the ground storage tank with a properly designed  
 Date: 01/28/2004 (256287)  
 Self Report? NO Classification Minor  
 Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)  
 Description: During the investigation and records review, it was noted that NOR had few inaccuracies that require updating.

Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 324, SubChapter A 324.1 30 TAC Chapter 324, SubChapter A 324.12 40 CFR Chapter 279, SubChapter I, PT 279, SubPT E 279.54(c)		
Description:	The container storage area, WMU 001, located near the maintenance storage building in the northwest side of the facility was not equipped with a secondary containment system.		
Date:	02/29/2004 (323372)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	04/30/2005 (426451)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/31/2006 (479649)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	07/31/2006 (527589)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	12/31/2006		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/31/2007		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		

F. Environmental audits.  
N/A

G. Type of environmental management systems (EMSs).  
N/A

H. Voluntary on-site compliance assessment dates.  
N/A

I. Participation in a voluntary pollution reduction program.  
N/A

J. Early compliance.  
N/A

Sites Outside of Texas  
N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

<b>DATES</b>	<b>Assigned</b>	9-Jul-2007	<b>Screening</b>	11-Jul-2007	<b>EPA Due</b>	
	<b>PCW</b>	16-Jul-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	Houston Marine Services, Inc.		
<b>Reg. Ent. Ref. No.</b>	RN102074739		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	34171	<b>No. of Violations</b>	1
<b>Docket No.</b>	2007-1112-IWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Enf. Coordinator</b>	J. Craig Fleming
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$3,000**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **57% Enhancement** **Subtotals 2, 3, & 7** **\$1,710**

Notes: A 57% enhancement is recommended for having 10 NOVs for self-reporting effluent violations, one NOV for same-similar violations, and one NOV for non-similar violations.

**Culpability** **No** **0% Enhancement** **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** **25% Reduction** **Subtotal 5** **\$750**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes: The respondent came into compliance on February 28, 2007 prior to the Notice of Enforcement dated July 3, 2007.

**Subtotal 6** **\$0**

**0% Enhancement\***

Total EB Amounts	\$66
Approx. Cost of Compliance	\$2,000

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$3,960**

### OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

**Adjustment** **\$0**

Notes:

**Final Penalty Amount** **\$3,960**

### STATUTORY LIMIT ADJUSTMENT

**Final Assessed Penalty** **\$3,960**

### DEFERRAL

**20%**

**Reduction**

**Adjustment** **-\$792**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

### PAYABLE PENALTY

**\$3,168**

Screening Date 11-Jul-2007

Docket No. 2007-1112-IWD-E

PCW

Respondent Houston Marine Services, Inc.

Policy Revision 2 (September 2002)

Case ID No. 34171

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN102074739

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
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NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	11	55%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 57%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

A 57% enhancement is recommended for having 10 NOVs for self-reporting effluent violations, one NOV for same-similar violations, and one NOV for non-similar violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 57%

<b>Screening Date</b> 11-Jul-2007	<b>Docket No.</b> 2007-1112-IWD-E	<b>PCW</b>
<b>Respondent</b> Houston Marine Services, Inc.	<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 34171	<small>PCW Revision June 26, 2007</small>	
<b>Reg. Ent. Reference No.</b> RN102074739		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> J. Craig Fleming		
<b>Violation Number</b> 1		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.121(1), Tex. Water Code § 26.121(a), and TPDES Permit No. 02842, Effluent Limitations and Monitoring Requirements No. 1	
<b>Violation Description</b>	Failed to comply with the permitted effluent limitations as documented in a record review conducted on June 14, 2007. See attached table.	
<b>Base Penalty</b>		\$10,000

**>> Environmental, Property and Human Health Matrix**

OR	<b>Harm</b>					
	<b>Release</b>	Major	Moderate	Minor		
	Actual			x		
	Potential				<b>Percent</b>	10%

**>> Programmatic Matrix**

<b>Falsification</b>					
Major	Moderate	Minor			
				<b>Percent</b>	0%

<b>Matrix Notes</b>	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.
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<b>Adjustment</b>	\$9,000
\$1,000	

**Violation Events**

Number of Violation Events	3	93	Number of violation days
----------------------------	---	----	--------------------------

<small>mark only one with an x</small>	daily		
	monthly		
	quarterly	x	
	semiannual		
	annual		
	single event		

<b>Violation Base Penalty</b>	\$3,000
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Three quarterly events are recommended.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount	\$66
	<b>Violation Final Penalty Total</b>
	\$3,960
<b>This violation Final Assessed Penalty (adjusted for limits)</b>	
\$3,960	

**Economic Benefit Worksheet**

**Respondent** Houston Marine Services, Inc.  
**Case ID No.** 34171  
**Reg. Ent. Reference No.** RN102074739  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,000	1-Jul-2006	28-Feb-2007	0.7	\$66	n/a	\$66

Notes for DELAYED costs

The estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances. The Date Required is the date the noncompliances started. The Final Date is the date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

NA

Approx. Cost of Compliance

\$2,000

TOTAL

\$66



## table rev

Enf. Coordinator	J. Craig Fleming
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**Corresponds to Violation Number:**

1

## Permit Limit

[illegible]

Name	Abbreviation
milligrams per liter	mg/L
pounds per day	lbs/day
million gallons per day	MGD
total suspended solids	TSS
5-day biochemical oxygen demand	BOD <sub>5</sub>
carbonaceous biochemical oxygen demand	CBOD
ammonia-nitrogen	NH <sub>3</sub> -N
dissolved oxygen	DO
compliant (no excursions)	c



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
HOUSTON MARINE SERVICES, INC.  
RN102074739**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2007-1112-IWD-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Houston Marine Services, Inc. ("Houston Marine") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Houston Marine appear before the Commission and together stipulate that:

1. Houston Marine owns and operates a petroleum storage and barge service facility at 850 South Lynchburg Road in Baytown, Harris County, Texas (the "Facility").
2. Houston Marine has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and Houston Marine agree that the Commission has jurisdiction to enter this Agreed Order, and that Houston Marine is subject to the Commission's jurisdiction.
4. Houston Marine received notice of the violations alleged in Section II ("Allegations") on or about July 8, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Houston Marine of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Three Thousand Nine Hundred Sixty Dollars (\$3,960) is assessed by the Commission in settlement of the violations alleged in Section II



- ("Allegations"). Houston Marine has paid One Thousand Five Hundred Eighty-Four Dollars (\$1,584) of the administrative penalty and Seven Hundred Ninety-Two Dollars (\$792) is deferred contingent upon Houston Marine's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Houston Marine fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Houston Marine to pay all or part of the deferred penalty. One Thousand Five Hundred Eighty-Four Dollars (\$1,584) shall be conditionally offset by Houston Marine's completion of a Supplemental Environmental Project.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
  8. The Executive Director of the TCEQ and Houston Marine have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
  9. The Executive Director recognizes that Houston Marine has implemented the following corrective measures at the Facility during February 2007:
    - a. Cleaned the pipe system that transports the stormwater within the Facility;
    - b. Vacuums the oil recovery system once each week into a vacuum truck and transports to the Facility's wastewater treatment plant; and
    - c. Returned to compliance with the permitted effluent limits during February, 2007.
  10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Houston Marine has not complied with one or more of the terms or conditions in this Agreed Order.
  11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
  12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Facility, Houston Marine is alleged to have failed to comply with the permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.121(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 02842, Effluent Limitations and Monitoring Requirements No. 1, as documented in a record review conducted on June 14, 2007, as indicated in the table below.



Effluent Violation Table		
Permitted Effluent Limits	Effluents Monitored	
	Chemical Oxygen Demand (COD) Daily Maximum 150 mg/L	Oil & Grease Daily Maximum 15 mg/L
July 2006	252	52
Dec 2006	C	37
Jan 2007	C	34

mg/L = milligrams per Liter		C = compliant
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### III. DENIALS

Houston Marine generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Houston Marine pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Houston Marine's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Houston Marine Services, Inc., Docket No. 2007-1112-IWD-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. Houston Marine shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, One Thousand Five Hundred Eighty-Four Dollars (\$1,584) of the assessed administrative penalty shall be offset with the condition that Houston Marine implement the SEP defined in Attachment A, incorporated herein by reference. Houston Marine's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.





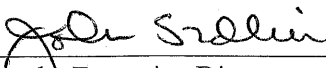
3. The provisions of this Agreed Order shall apply to and be binding upon Houston Marine. Houston Marine is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Houston Marine fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Houston Marine's failure to comply is not a violation of this Agreed Order. Houston Marine shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Houston Marine shall notify the Executive Director within seven days after Houston Marine becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Houston Marine shall be made in writing to the Executive Director. Extensions are not effective until Houston Marine receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Houston Marine in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Houston Marine, or three days after the date on which the Commission mails notice of the Order to Houston Marine, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

12/7/07  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

10-01-2007  
Date

Jim BAILEY  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Houston Marine Services, Inc.

PRESIDENT  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

DECLARATION

I, the undersigned, do hereby declare that

the foregoing is a true and correct copy

of the original as the same appears in the

records of the

and

that the same is a true and correct copy of the original as the same appears in the records of the

and that the same is a true and correct copy of the original as the same appears in the records of the

and that the same is a true and correct copy of the original as the same appears in the records of the

and that the same is a true and correct copy of the original as the same appears in the records of the

10-10-10

John R. [Signature]

10-10-10

John R. [Signature]

Attachment A  
Docket Number: 2007-1112-IWD-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>Houston Marine Services, Inc.</b>
<b>Payable Penalty Amount:</b>	<b>Three Thousand One Hundred Sixty-Eight Dollars (\$3,168)</b>
<b>SEP Amount:</b>	<b>One Thousand Five Hundred Eighty-Four Dollars (\$1,584)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Gulf Coast Waste Disposal Authority ("GCWDA")-River, Lakes, Bays 'N Bayous Trash Bash</b>
<b>Location of SEP:</b>	<b>Harris County</b>

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**A. Project**

The Respondent will contribute to Gulf Coast Waste Disposal Authority ("GCWDA") for its River, Lakes, Bays 'N Bayous Trash Bash in Harris County. The contribution will be used in accordance with the Supplemental Environmental Project Agreement between the GCWDA and the Texas Commission on Environmental Quality. Specifically, the contribution will be used to pay for materials, supplies, disposal costs, and transportation costs directly associated with the cleanup of trash and pollutants from the Galveston Bay and the San Jacinto watershed.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

**B. Environmental Benefit**

This SEP will provide a discernible environmental benefit by removing pollutants from the Galveston Bay and waterways in the San Jacinto watershed, which will improve water quality. The project will also help educate volunteers about non-point source pollution and what the volunteers can do to help keep the environment clean.

**C. Minimum Expenditure**

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.



**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Lori Gernhardt  
Gulf Coast Waste Disposal Authority  
910 Bay Area Boulevard  
Houston, Texas 77058

**3. Records and Reporting**

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality  
Financial Administration Division, Revenues  
Attention: Cashier, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.





**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

